



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of an Appeal of)
a Decision of the Schools and)
Libraries Division, Universal)
Service Administrative Company)

FCC Docket Nos. 96-45, 97-21

APPEAL AND REQUEST FOR REVIEW OF AN
ADMINISTRATOR'S DECISION ON AN APPEAL
BY THE CITY OF BOSTON
FUNDING YEAR 2002-2003

I. INTRODUCTION.

This is an appeal seeking review of an Administrator's Decision on Appeal dated June 24, 2002 by the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). By this appeal, the City of Boston ("City") seeks review of the SLD's denial of the City's funding request due to the alleged failure of the funding request to meet the minimum processing standards of the SLD. For the reasons that follow, the City respectfully requests that the Federal Communications Commission ("FCC") grant this appeal.

II. STATEMENT OF RELEVANT FACTS.

The City is a Municipal Corporation in the Commonwealth of Massachusetts. On or about January 18, 2002, acting through the Department of Neighborhood Development, the City submitted FCC Form 471, Application Number 330664, to

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the SLD for the funding year July 1, 2002 through June 30, 2003 (“the Application”). (see attached as **Exhibit A**) The Application contained the Billed Entity Number 157822 and the applicant’s Form Identifier as the New Boston (Brunswick) Middle School. The City is seeking reimbursement of Three Hundred Eleven Thousand Five Hundred Dollars (\$311,500.00) representing eighty-nine percent (89%) of annual non-recurring charges of Three Hundred Fifty Thousand Dollars (\$350,000.00) associated with the construction of a new middle school including classrooms, offices, and computer labs.

By an unsigned memorandum dated February 26, 2002 the SLD notified the City that the Application in its entirety did not meet the minimum processing standards of the SLD and could not be processed. (see attached as **Exhibit B**) Specifically, the SLD denied to review the request submitted by the City for the **sole reason** that *“the FCC Form 471 submitted does not include at least one complete Block 4 Worksheet relevant to the type of application as selected in Block 1, Item 5.”* (Id)

The City was timely in requesting reconsideration of the SLD decision in a March 13, 2002 Letter of Appeal to the USAC (see attached as **Exhibit C**) in full compliance with the directions from the SLD. As justification for its appeal the City contended that the school listed in the Application is new construction requiring, according to the instructions promulgated by the SLD, that a zero (“0”) be entered in Item 10(b), Column 4 “Total Number of Students” portion of the Application. Further, placing the required “0” at the bottom of Column 4 as

opposed to placing at the top of the Column, if an error at all, was nevertheless an inconsequential clerical error with no material consequence to the Application.

In full compliance with the SLD instructions, the City Application correctly contains a typed "0" at the bottom of Item 10(b), Column 4, the column in question. (See Exhibit A, Page 3a)

In an unsigned memorandum dated June 24, 2002 the SLD notified the City that the City's appeal was denied in full. (see attached as **Exhibit D**) By way of an explanation the SLD stated, once again, that the **sole reason** for rejecting the application was that "*The original submission of this funding request was missing data: Block 4, Item 10b of the FCC Form 471 was left blank.*" No other issue with the Application has ever been raised by the SLD either in their initial denial of the City's Application or their subsequent denial of the City's appeal.

III. **QUESTION PRESENTED FOR REVIEW.**

In reference to the denial of funding for the Application from the City, the questions presented for review are:

- a. Whether the Application should have initially been approved because the City did not make a mistake in completing the Application?
- b. Whether, assuming for the purposes of argument that the City did make a mistake in completing the Application, any mistake in the information provided could have been identified by the SLD from the information that was provided by the City with the Application?

- c. Whether the appeal of the denial of the Application falls within the limited circumstances under which appeals can be granted by the USAC/SLD assuming there are no other issues identified during the review of the Application, and if so, should the appeal have been granted?

IV. **ARGUMENT.**

The City did not make a mistake in completing the Application. In its FCC Form 471, the City requested funding associated with the construction of a new middle school. The document entitled “Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (FCC Form 471)” contains a specific instruction as to the manner in which applicants are to complete each worksheet. (see attached as **Exhibit E**) For completing Item 10 (b), Column 4 applicants are directed to *“List the total number of K-12 students in each school. (For “New School Construction” or for an “Administrative Entity,” enter “0” in this item.)”* This is precisely what the City did in completing the application by inserting a “0” at the bottom of Column 4 of Item 10(b) (see **Exhibit A**, Page 3a). The conclusion reached by the SLD that the Application did not include at least one Block 4 Worksheet relevant to the type of application (new school construction) as selected in Block 1, item 5 is simply incorrect.

While denying that the Application from the City contained any mistake, assuming for the sake of argument that placing the “0” at the bottom of Item

10(b), Column 4 of the Application as opposed to the top of the column was an error by the City, **the denial of the Application by the SLD solely for the reason of an allegedly misplaced “0” was improper.** The SLD Guidelines for Review make clear that if an applicant makes a mistake in completing the Form 471, and the mistake could have been identified as such from information provided by an applicant in or with an application, the SLD may process an application for funding. Because the Application contained several other references to the fact that the Application was for construction of a new building the Application did meet the minimum processing standards of the SLD and should be accepted for further processing. If any error was made it amounted to an insignificant clerical mistake in completing one item within Form 471 which could have been seen by the SLD during their initial review of the Application and rectified with information provided elsewhere within the four corners of the Application. The perceived mistake is of no consequence to the eligibility of the proposed work, to the amount of the reimbursement being sought or to the integrity of the program process.

The City appeal to the SLD of the denial of the Application should have been granted. According to the information posted in the reference area of the SLD web site, the guidelines for appeals of decisions from the SLD are those issued by the Schools and Libraries Programmatic Subcommittee of the USAC Board of Directors. (see attached **Exhibit F**) Assuming that no other issues are raised by the SLD during their review of an application there are several situations when

appeals can be granted. One such situation is *“when the appeal makes clear that the applicant made a mistake in information provided in or with the application leading to funding denial and the SLD could have identified the mistake from information provided with the application.”* The guidelines for review go on to say *“If the applicant made a mistake in completing the Form 471and when the appeal points out the mistake and how the SLD could have seen the mistake, the SLD will grant the appeal.”* The appeal filed by the City contains a clear reference to the alleged mistake and indicates four separate areas of information within the Application by which the SLD could have seen the mistake. (see **Exhibit C**) By the expressed terms of its own guidelines for review the SLD should have granted the appeal filed by the City.

V. RELIEF SOUGHT.

For the reasons stated above, the City respectfully requests that the FCC grant its appeal and order that the Application submitted by the City be remanded to the SLD for further review and to issue a new funding commitment decision providing discounts for all eligible services requested by the City. Specifically, the City requests a determination that:

- a. the Application does meet the minimum processing standards of the SLD;
- b. the Application was improperly denied;
- c. the Application should be considered for funding.

Date: 8/19/02

Respectfully submitted,
THE CITY OF BOSTON

By: 
Paul D. Roche

Special Assistant Corporate Counsel
Public Facilities Department
26 Court Street, 10th Floor
Boston, MA 02108

FILE WITH: Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

FCC Form 471

FY 03



HEC47101-18-0205200741

Approval by OMB

3060-0806

Schools and Libraries Universal Service Services Ordered and Certification Form 471

Estimated Average Burden Hours Per Response: 4 hours

This form asks schools and libraries to list the eligible telecommunications-related services they have ordered and estimate the annual charges for them so that the Fund Administrator can set aside sufficient support to reimburse providers for services.

Please read instructions before beginning this application. (See www.sl.universalservice.org for filing this form online)

Applicant's Form Identifier: New Boston Middle
(Create your own code to identify THIS Form 471)

Form 471 Application #: 330664
(To be inserted by Fund Administrator)

Block 1: Billed Entity Information

(The "Billed Entity" is the entity paying the bills for the services listed on this form.)

1	Name of Billed Entity (30 characters max.)	City of Boston, Dept of Neighborhood Development		
2	Funding Year: July 1, 2002 through June 30, 2003	3	Entity Number (up to 10 digits)	157822
4a	Street Address, P.O. Box, or Route Number	26 Court Street, 10th floor		
	City Boston	State MA	Zip Code 02108	
b	Telephone Number (10 digits + ext.)	(617) 635 - 0550		
c	Fax Number (10 digits)	(617) 635-0555		
d	E-mail Address (50 characters max.)	janet.fishstein.PFD@ci.boston.ma.us		
5	Type of Application	<input type="checkbox"/> School (public or non-public school) <input checked="" type="checkbox"/> School District (LEA; public or non-public (e.g., diocesan) local district representing multiple schools) <input type="checkbox"/> Library (library (i.e. outlet/branch, system)) <input type="checkbox"/> Consortium <input type="checkbox"/> Check here if any members of this consortium are ineligible non-governmental entities.		
6a	Contact Person's Name	Janet Fishstein		
First, fill in every item of the Contact Person's information below that is different from Item 4, above.				
Then check the box next to the preferred mode of contact. (At least one box MUST be checked.)				
b	<input type="checkbox"/> Street Address, P.O. Box, or Route Number	26 Court Street, 10th floor		
	City Boston	State MA	Zip Code 02108	
c	<input type="checkbox"/> Telephone Number (10 digits + ext.)	(617) 635 - 0550		
d	<input type="checkbox"/> Fax Number (10 digits)	(617) 635-0555		
e	<input checked="" type="checkbox"/> E-mail Address (50 characters max.)	janet.fishstein.PFD@ci.boston.ma.us		
f	Holiday/vacation/summer contact information:			

Block 2: Minor Modification to Existing Contract?

- 7 ☐ Check if this Form 471 represents a minor modification, such as a modification of services, to a Form 471 for which you already have a Receipt Acknowledgement Letter. Provide the data requested below, attach a Description of Services highlighting the modified service, and sign Block 6.

Form 471 Application #: Funding Request Number:

Minor modification requests can be filed **MANUALLY** only. Please see www.sl.universalservice.org for filing instructions.

Entity Number: 157822
Contact Person: Janet Fishstein

Applicants Form Identifier: New Boston Middle
Phone Number: (617) 635 - 0550

Block 3: Impact of Services Ordered in THIS Application

8 Please provide your best estimate of the number of people who will be served by all of the services ordered in THIS Form 471. Schools/school districts complete 8a. Libraries complete 8b. Consortia complete 8a and/or 8b.

a Number of students to be served b Number of library patrons to be served

9 The following questions seek summary outcome information based on the services ordered in this Form 471 application. Please complete only those rows that are relevant to THIS application.

IF THIS APPLICATION INCLUDES...		BEFORE ORDER	AFTER ORDER
a	(Schools/districts/consortia only) Telephone service: How many classrooms had phone service before and after your order?	0	41
b	High-bandwidth voice/data/video service: How many buildings served before and after your order?		
c	High-bandwidth voice/data/video service: Highest speed to a building before and after your order?		
d	Dial-up Internet connections: How many before and after your order?		
e	Dial-up Internet connections: Highest speed before and after your order?		
f	Direct connections to the Internet: How many before and after your order?		
g	Direct connections to the Internet: Highest speed before and after your order?		
h	Internet access (for schools): How many rooms have Internet access before and after your order?	0	106
i	Internet access (for libraries): How many buildings have Internet access before and after your order?		
j	Internet access: How many computers (or other devices) with Internet access before and after your order?		
k	Other technology outcomes: (please specify):		

Block 4: Discount Calculation Worksheets (pages 3a, 3b, and 3c)

The following 3 pages (3a, 3b, and 3c) are Block 4 worksheets for use in calculating your discount for services. You will complete one or more depending on the type of application you are filing. Each worksheet has instructions.

- If you are filing as a school or a school district, use Worksheet A (page 3a).
- If you are filing as a library (i.e. outlet/branch, system), use Worksheet B (page 3b).
- If you are filing as a consortium, use Worksheet C (page 3c), and include as many Worksheets A and B as you need for back-up documentation.

New Boston Middle
(617) 635 - 0550

Page 1 of 1

(For Administrator's Use)

- **Applying for discounts ONLY for an individual school, or ONLY site-specific services:** Complete columns 1-7 only for each school. Add and number pages as needed. Then use each school's Entity Number and its discount from Column 7 to complete Block 5 site-specific service to that school. _____
- **Applying for discounts on services shared by ALL schools in the district (with or without site-specific services as well):**
Complete all columns 1-8 for all schools in the district. Then use the Weighted Average Discount in 10c (below) to complete Block 5 for shared services.
- **Applying for discounts on different shared services shared by different groups of schools (with or without site-specific services as well):**
Complete one worksheet, columns 1-8 PLUS 10c, for EACH different group of schools sharing a service. Designate this worksheet A-1, A-2, A-3, etc. _____

School District Entity Number: 157822

FCC Form 471 -- October 2000

Entity Number: 157822

Applicants Form Identifier:

New Boston Middle

Contact Person: Janet Fishstein

Phone Number:

(617) 635 - 0550

Block 5: Discount Funding Request(s)Block 5, page 1 of 1**Instructions:** Use one Block 5 page for **EACH** service (Funding Request Number) for which you are requesting discounts.

Make as many copies of this page as necessary, and number the completed pages to assure that they are all processed correctly.

FRN # _____ (to be assigned by administrator)

11 Category of Service (only ONE category should be checked) <input type="radio"/> Telecommunications Service <input type="radio"/> Internet Access <input checked="" type="radio"/> Internal Connections					15 Contract Number (if available; use "T" if tariffed services, "MTM" if month-to-month services as described in Instructions) C7246-01					
12 Form 470 Application Number (15 digits) 786760000294786					16 Billing Account Number (e.g., billed telephone number) 617/635-0550					
13 SPIN - Service Provider Identification Number (9 digits) 143011716					17 Allowable Vendor Selection/Contract Date (mm/dd/yyyy) (based on Form 470 filing) 10/5/2000					
14 Service Provider Name Peabody Construction					18 Contract Award Date (mm/dd/yyyy) 6/1/2001					
					19a Service Start Date (mm/dd/yyyy) 7/1/2002					
					19b Service End Date (mm/dd/yyyy) (use only for "T" or "MTM" services)					
20 Contract Expiration Date (mm/dd/yyyy) 3/13/2003										
21 Description of This Service: You MUST attach a description of the service, including a breakdown of components and costs, plus any relevant brand names. Label this description with an Attachment #, and note number in space provided below. Attachment # 1 _____										
22 Entity/Entities Receiving This Service: a. If the service is site-specific (provided to one site and not shared by others), list the Entity Number of the entity from Block 4 receiving this service : _____ b. If the service is shared by all entities on a Block 4 worksheet, list the worksheet number (e.g., A-1): A1 _____										
23 Calculations										
Recurring Charges					Non-Recurring Charges			Total Charges		
A	B	C	D	E	F	G	H	I	J	K
Monthly \$ charges (total amount per month for service)	How much of the \$ amount in (A) is ineligible?	Eligible monthly pre-discount amount (A minus B)	# of months service provided in program year	Annual pre-discount \$ amount for eligible recurring charges (C x D)	Annual non-recurring (one-time) \$ charges	How much of the \$ amount in (F) is ineligible?	Annual eligible pre-discount \$ amount for one-time charges (F minus G)	Total program year pre-discount \$ amount (E + H)	% discount (from Block 4 Worksheet)	Funding Commitment \$ Request (I x J)
0	0	0	0	0	350000	0	350000	350000	89%	\$ 311,500.00

Contact Name: Janet Fishstein

Contact Telephone Number:

(617) 635 - 0550

Page x of x (Total Grid Pages)

Schools and Libraries Universal Service Program Form 471 Pre-Discount Cost Calculation Optional Grid

Please read instructions before completing

(To be completed by Schools, Libraries, or Consortia)

Block A: General Information

1. Name of Applicant <div style="text-align: right;">City of Boston, Dept of Neighborhood Development</div>	2. Universal Service Control Number (from 470 Application) <div style="text-align: right;">786760000294786</div>
3a. SLC Service Provider Number (SPIN) if known, and Full Legal Name of your Service Provider <div style="display: flex; justify-content: space-between;"> 143011716 Peabody Construction </div>	3b. Contract or Tariff Number (If Applicable -- from Item 15-16) <div style="text-align: right;">C7246-01</div>
4. Shared Services: Telecommunications Services <input type="checkbox"/> Internal Connections <input type="checkbox"/> Internet Access <input type="checkbox"/>	Site Specific Services: Internal Connections <input checked="" type="checkbox"/> Dedicated Services <input type="checkbox"/>
5. Average Discount Rate for Entities Receiving Services Listed Below in Block B (Per Column 11 of Items 15 or 16)	

Block B: Services Ordered Information

6. Services & Products Ordered Details

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Account Information	Service Description	Quantity	One-Time Charges	One-Time Taxes and Surcharges	Unit Monthly Charges	Unit Monthly Taxes and Surcharges	Number of Months	Annual Amount of Monthly Charges	% Eligible Services and/or % Eligible Uses	% of Service/Product Used w/ Eligible Entities	Estimated Eligible Pre-Discount One-Time Charges	Total Annual Amount of Estimated Eligible Pre-Discount Monthly Charges	Estimated Eligible Pre-Discount Total Charges
a.	voice, video and data wiring								100%	100%	350000		350000
	41 Classrooms, 53 Offices, 10 Computer labs, 2 Auditoriums												
d.	Classroom fit out = (9) data outlets, (1) voice outlet, (1) video outlet												
e.	Office fit out = (2) data outlets and (2) voice outlets												
f.	Computer Lab fit out = (29) data outlets, (1) voice outlet and (1) video outlet												
g.	Auditorium fit out = (same as classroom)												
7. Total													350000

Attach this grid to your Form 471 application to support Block 5, Items 15 & 16 Columns 8-10 and Item 17.

Entity Number: 157822
Contact Person: Janet Fishstein

Applicants Form Identifier: New Boston Middle
Phone Number: (617) 635 - 0550

Block 6: Certifications and Signature

- 24 The entities listed in Block 4 of this application are eligible for support because they are: (Check one or both.)
- a ☒ schools under the statutory definitions of elementary and secondary schools found in the Elementary and Secondary Education Act of 1965, 20 U.S.C. Secs. 8801(14) and (25), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million; and/or
 - b ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools, including, but not limited to, elementary and secondary schools, colleges, or universities.
- 25 The eligible schools and libraries listed in Block 4 of this application have secured access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to make effective use of the services purchased as well as to pay the discounted charges for eligible services.
- 26 All of the schools and libraries or library consortia listed in Block 4 of this application are covered by:
- a ☒ an individual technology plan for using the services requested in this application; and/or
 - b ☐ higher-level technology plan(s) for using the services requested in this application; or
 - c ☐ no technology plan needed; applying for basic local and long distance telephone service only.
- 27 Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):
- a ☒ technology plan(s) has/have been approved; and/or
 - b ☐ technology plan(s) will be approved by a state or other authorized body; or
 - c ☐ no technology plan needed; applying for basic local and long distance telephone service only.
- 28 I certify that the entities eligible for support that I am representing have complied with all applicable state and local laws regarding procurement of services for which support is being sought.
- 29 I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.
- 30 I certify that the entity(ies) I represent has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments.
- 31 I understand that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
- 32 I recognize that I may be audited pursuant to this application. I will retain for five years any and all worksheets and other records that I rely upon to fill out this application, and, if audited, will make available to the Administrator such records.
- 33 I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

34 Signature of authorized person

Janet Fishstein

35 Date

1/17/02

36 Printed name of authorized person

Janet Fishstein

37 Title or position of authorized person

Director of School Projects

38 Telephone number of authorized person: (617) 635-0550

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE TO INDIVIDUALS: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator, 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order service eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the Federal government, the taxpayer identification number (such as your social security number) and other information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Privacy Act of 1974, Pub. L. No. 93-579, December 31, 1974, 5 U.S.C. § 552, and the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD-Form 471
c/o Ms. Smith
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100**



Universal Service Administrative Company
Schools & Libraries Division

Fund Year 5 FORM 471-REJECTION LETTER

February 26, 2002

**JANET FISHSTEIN
CITY OF BOSTON, DEPT OF NEIGHBORHOOD DEVELOPMENT
26 COURT STREET, 10TH FLOOR
BOSTON, MA 02108**

**Re: Applicant's Form Identifier: NEW BOSTON MIDDLE
Form 471 Application Number: 330664**

Dear **JANET FISHSTEIN:**

This letter is your notification that the entire FCC Form 471, *Services Ordered and Certification Form*, you submitted did not meet Minimum Processing Standards and cannot be processed. *Your Form 471 is enclosed with this letter, which means that the Schools and Libraries Division (SLD) could not process any portion of it.* Here is an explanation of the specific reason(s) your Form 471 did not meet the Minimum Processing Standards:

- **The FCC Form 471 submitted does not include at least one complete Block 4 Worksheet relevant to the "Type of Application" as selected in Block 1, Item 5.**

TO APPEAL A DECISION OF THE SCHOOLS AND LIBRARIES DIVISION:

If you wish to appeal a decision of the Schools and Libraries Division (SLD), you may do so by writing a letter of appeal to the SLD or by writing a letter of appeal to the Federal Communications Commission (FCC). The SLD or FCC must receive your appeal within 60 days of the date of the SLD decision you are appealing. This means that your appeal must be RECEIVED by the SLD or FCC no later than 60 days after the date of the SLD decision. Failure to meet this requirement will result in automatic dismissal of your appeal.

While you may write directly to the FCC without first presenting your appeal to the SLD, you are encouraged to write first to the SLD so that the SLD has an opportunity to review your appeal and grant it, if appropriate. If you disagree with the SLD's response to your appeal, you may then file an appeal with the FCC. However, the FCC overturns SLD decisions infrequently.

If your appeal was due on or before September 10, 2001, see the SLD web site www.sl.universalservice.org for more information on appeal deadlines and procedures for filing appeals.

In your letter of appeal:

1. **Provide your contact information.** Please list the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal.

2. **Identify which SLD decision you are appealing.** Cite the "letter type," usually included and featured on the first page of the letter; the relevant Funding Year; and the date of the letter. You must include the applicant name; the Application Number, if applicable; and your Entity Number. State outright that your letter is an "appeal."
3. **Identify the particular Funding Request Number, whenever applicable, that is the subject of your appeal.** If your application was wholly rejected on grounds related to the entire application (e.g., that you represent ineligible entities), you need not refer to any Funding Request Numbers in your letter of appeal.
4. **Explain your appeal.** When explaining your appeal, include the precise language or text from the SLD decision that is at the heart of your appeal. By pointing to the exact words that give rise to your appeal, the reviewer will be able to more readily understand and respond appropriately to your appeal. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
5. **Provide an authorized signature on your letter of appeal.**

If you are submitting your appeal to the SLD, please send it to: Letter of Appeal, Schools and Libraries Division, Box 125 – Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Other options for filing an appeal with the SLD can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site <www.sl.universalservice.org>.

If you are submitting your appeal to the FCC via United States Postal Services, send it to: Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Services, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal.

Further information and other options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site <www.sl.universalservice.org> or by contacting the SLD Client Service Bureau at 1-888-203-8100.

Schools and Libraries Division

Universal Service Administrative Company

Enclosure:

(1) Form 471



DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT

BOSTON'S PUBLIC FACILITIES DEPARTMENT

THOMAS M. MENINO, MAYOR

CHARLOTTE GOLAR RICHIE, CHIEF AND DIRECTOR

March 13, 2002

Universal Service Administrative Company
Schools and Libraries Division
Box 125-Correspondence Unit
80 S. Jefferson Road, Whippany, NJ 07981.

Re: Letter of Appeal

Reference: City of Boston, Department of Neighborhood Development
Entity Number: 157822
471 Application Number: 330664

Dear Sir or Madam:

This letter documents the appeal by the City of Boston, Department of Neighborhood Development (DND) of the Schools and Libraries Division's rejection of the Form 471 referenced above. We respectfully request full consideration of this application.

Justification for Appeal

The Fund Year 5 Form 471-Rejection Letter, dated February 26, 2002 (Attachment 1) states that "The FCC Form 471 submitted does not include at least one complete Block 4 Worksheet relevant to the "Type of Application" as selected in Block 1, Item 5." It further stated that the application did not meet the Minimum Processing Standards and cannot be processed.

We respectfully suggest that these statements are in error and that the Form 471 should be processed for funding. The school listed on the subject 471 Block 4 is a new school building.

According to the SLD instructions, if the application is for "New School Construction" we should enter "0" in item (10)(b), Column 4. We respectfully contend that the use of a blank rather than a zero was intended to be consistent with the SLD instructions for this item, and in any case, is an insignificant error of no material consequence to the application.

- It in no way affects the amount of the award being requested.
- It has no impact on our eligibility for the discount level requested.
- It has no effect on the SLD's ability to assure the integrity of the program process.



In addition, while the detail line in column 4 was left blank, we did enter a zero in the total box for that column. Please reference the copy of page 3a of 6 on the FCC Form 471 that was submitted (Attachment 2).

The following indicates that this application is for a new building:

- The name of the school is "New Boston Middle";
- The entity number for the school indicates it was recently issued;
- That no number of students (item 10b, column 4) and no number of students eligible for free and reduced lunch (item 10b, column 5) were entered;
- The fractional discount level indicated (89%) is only possible for a new school.

An inquiry from the SLD Problem Resolution group could have quickly confirmed that this was in fact a new building.

In view of the above, we respectfully request that the SLD accept the Form 471 as being in compliance with the minimum processing standards and remand it for further processing. It is our position that the further processing of this application by the SLD is in no way prejudiced.

Please do not hesitate to contact me if you have any questions, or need additional information to support our appeal.

Respectfully submitted,



Janet Fishstein
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Encl.



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2002-2003

Janet Fishstein
City of Boston, Department of Neighborhood Development
26 Court Street, 10th Floor
Boston, MA 02108

Re: Billed Entity Number: 157822
471 Application Number: 330664
Funding Request Number(s): 893695
Your Correspondence Dated: March 13, 2002

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year Five Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 893695
Decision on Appeal: **Denied in full.**
Explanation:

- In your letter of appeal you admit that you left Block 4, Item 10b of your FCC Form 471 blank. You claim that leaving it blank is the same as a zero. Unfortunately that is not the case the instructions require Block 4, item 10b be filled in with a number.
- It is the responsibility of the applicant to follow the instructions and properly fill out the application accurately and provide all the necessary documentation on time.
- The original submission of this funding request was missing data: Block 4, Item 10b of the FCC Form 471 was left blank. This caused the form to be rejected for failing to meet the minimum processing standards for that form. Forms that do not meet the minimum processing standards are not considered for funding. Your

appeal has not shown that the request was improperly denied. Consequently, this funding request will not be data entered and your appeal is denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC) via United States Postal Service: FCC, Office of the Secretary, 445-12th Street SW, Washington, DC 20554. If you are submitting your appeal to the FCC by other than United States Postal Service, check the SLD web site for more information. Please reference CC Docket Nos. 96-45 and 97-21 on the first page of your appeal. **The FCC must RECEIVE your appeal WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER for your appeal to be filed in a timely fashion.** Further information and new options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site, www.sl.universalservice.org.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Calculating Each School's Site-Specific Discount (Columns 4-7)

Item (10)(b), Column 4: List the total number of K-12 students in each school. (For "New School Construction" or for an "Administrative Entity," enter "0" in this item.)

Item (10)(b), Column 5: Provide the number of students eligible for the National School Lunch Program (NSLP) as of the October 1st prior to the filing of this form, or use the most current figure available. (For "New School Construction" or for an "Administrative Entity," enter "0" in this item.) You may choose to use an actual count of students eligible for the national school lunch program or use federally approved alternative mechanisms to determine the level of poverty for purposes of the universal service discount program. Schools that choose not to use an actual count of students eligible for the national school lunch program may use only the federally approved alternative mechanisms contained in the Improving America's Schools Act (34 C.F.R. § 200.28(a)(2)(i)(B)). That law states that private schools without access to the same poverty data that public schools use to count children from low-income families may use comparable data "(1) [c]ollected through alternative means such as a survey" or "(2) [f]rom existing sources such as AFDC [Aid to Families with Dependent Children] or tuition scholarship programs." See 34 C.F.R. § 200.28(a)(2)(i)(B). It should be noted that AFDC has been changed to Temporary Aid for Needy Families (TANF). Schools using a federally approved alternative mechanism may use participation in other income-assistance programs, such as Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance (Section 8), or Low Income Home Energy Assistance Program (LIHEAP) to determine the number of students that would be eligible for the NSLP.

Item (10)(b), Column 6: For each school, divide Column 5 by Column 4 to arrive at the percentage of students eligible for the National School Lunch Program. Discount calculations may be rounded up only when fully half a discount point is reached. For example, an urban school with a discount eligibility of 34.499% is in the 50% discount band from the matrix, and an urban school with a discount eligibility of 34.500% is in the 60% discount band from the matrix. For eligibility discounts of less than 1%, however, there is no rounding and the discount band from the matrix is 20% for urban and 25% for rural. (For "New School Construction" or for an "Administrative Entity," leave this item blank.)

Item (10)(b), Column 7: Using the percentage in Column 6 and the FCC Discount Matrix (see below), you should determine the percentage discount to which the school is entitled. If you file online, the system will calculate this figure for you. If you have any questions about determining this figure you can call the SLD Client Service Bureau for assistance at **888-203-8100**. For "New School Construction" or for an "Administrative Entity" ONLY, enter the Weighted Average Discount for the School District. (A preparatory Worksheet A must be submitted documenting the Weighted Average Discount for the School District or, if a Worksheet A already includes all schools in the School District, label that worksheet "All Schools in the School District.")

Exhibit F



USAC | High Cost | Low Income | Rural Health Care | Schools and Libraries
 Site Tour | FAQs | Contacts | Get Help!

Reference Area

Appeals – SLD Guidelines for Review

The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) reviews appeals of its decisions in accordance with guidelines established by the Schools and Libraries Programmatic Subcommittee of the USAC Board of Directors. There are four circumstances when appeals can be granted by USAC, assuming there are no other issues identified during review:

1. When the appeal makes clear that the SLD erred in its initial review. If the SLD makes a mistake (for example, denies funding because the request includes 30% or more of ineligible services), and the appeal points out that mistake (demonstrates that all the services were in fact eligible or that the cost of ineligible services was not included in the original request), the SLD will grant the appeal.

2. When the appeal makes clear that the applicant made a mistake in information provided in or with the application leading to funding denial and that the SLD could have identified the mistake from information provided with the application. If the applicant made a mistake in completing the Form 471 (for example, put in the wrong contract award date in Block 5) and had provided information to the SLD either with the application or during PIA review (for example, provided a copy of the contract to PIA during review with the award date indicated) and when the appeal points out the mistake (the wrong contract award date) and how the SLD could have seen the mistake (from the contract provided during review), the SLD will grant the appeal.

3. When the appeal provides documentation to correct an incorrect SLD assumption made because there was insufficient information in the application file about an issue. In general, PIA will contact the applicant and ask for all information necessary to make decisions about an application. If that contact does not occur, however, and funding is denied based on an incorrect assumption, the SLD will grant an appeal when the appellant points out the incorrect assumption and provides documentation about the issue that is consistent with information originally provided but also successfully resolves the ambiguity in the original file.

4. When the SLD obtains policy clarification or new policies between the time of funding commitment and the appeal decision. Over the life of the Schools and Libraries program to date, there have been policy clarifications from the FCC that have changed the way the SLD views some funding requests. For example, remote access routers were viewed as ineligible products because they could be used to access the Internet remotely from ineligible sites. In its November 1999 decision on an appeal from the White Sulphur Springs School District, the FCC ruled that such routers can be eligible if they are not used remotely. The SLD changed its guidance on the web site and granted subsequent appeals that met the conditions for eligibility.

Consistent with these guidelines, the SLD will not accept new information on

<http://www.sl.universalservice.org/reference/AppealsSLDGuidelines.asp>

- How to Apply ▼
- Service Providers ▼
- Reference Area
- SLD Forms
- Funding Commitments ▼
- Site Map
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